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In re Application of

Lamkin et al.
Application No. 10/010,078
Filed: November 2, 2001
Attorney Docket No. IA 1500.01A

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: DECISION GRANTING APPLICATION
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This decision is in response to applicants' "APPLICATION FOR PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR 1.705" timely¹ filed on October 26, 2004 requesting that the Office adjust the PTA calculation at the time of the mailing of the notice of allowance from a determination of two hundred and ninety (290) days to a determination of three hundred and sixty-two (362) days.

Applicants' application is **GRANTED**. The Office will adjust the PAIR calculation to reflect that the value at the time of the mailing of the notice of allowance is THREE HUNDRED AND SIXTY-TWO (362) days

Applicants assert that the Office erred in assessing a one hundred and forty-one day reduction for the response to the notice to file missing parts on January 14, 2002. Applicants assert that the response was completely filed as of July 2, 2002, date of filing of the requisite fees and not September 12, 2002 as determined by the Office. Accordingly, applicants assert that the reduction pursuant to 37 CFR 1.704(b) should have been sixty-nine days(69) days not one hundred and forty-one days. Applicants did not dispute the four hundred and thirty-four (434) days of Office delay pursuant to 37 CFR 1.702(a) (1) nor dispute the three day reduction assessed for applicant delay under 37 CFR 1.704(b). Overall, applicants believe that the correct amount of PTA at the time of the mailing of the notice of allowance is three hundred and sixty-two (362) days (434- (3+69) = 362).

Applicants arguments are persuasive. Specifically, applicants are correct in that the response to the notice to file missing parts was complete on July 2, 2002 not September 12, 2002. Accordingly, the reduction for overdue three month reply to the notice should have been sixty-nine (69) days and not one hundred and forty-one (141) days. Accordingly, applicants correct amount of PTA at the time of the mailing of the notice of allowance is three hundred and sixty-two (362) days as noted by applicants.

After the mailing of this decision, the Office will forward the application to the Office of Patent Publications for a prompt issuance of the application. The Office notes that any delays in issuing

¹Issue fee paid on 12-22-2004.

the application within four months of the payment of the issue fee and other requirements being satisfied will be added at the time of the issuance of the patent.

The Office will assess the \$200.00 fee to Deposit Account 04-1175. No additional fees are required by this decision..

Any questions concerning this application should be directed to Kery A. Fries, Senior Legal Advisor, Office of Patent Legal Administration, Office of Deputy Commissioner for Patent Examination Policy at 571-272-7757.



Karin Ferriter
Senior Legal Advisor
Office of Deputy Commissioner
for Patent Examination Policy

cc; Adjusted Pair Calculation